REMARKS/ARGUMENTS

Claims 1 through 24, 40 and 41 are now pending in this application. Claims 1 and 13 are independent claims.

Claim Rejections – 35 USC § 103(a)

Claims 1, 2, 13, 14, 40 and 41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cockrill et al., United States Patent Number: 6,473,740 (hereinafter: Cockrill), in view of Freund et al., United States Patent Number: 6,138,169 (hereinafter: Freund), and further in view of Paul Dreyfus (CORBA: Theory and Practice) (hereinafter: Dreyfus). (Pending Office Action, Page 2). Claims 3-6, 8-12, 15-18 and 20-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cockrill, in view of Freund, in view of Dreyfus and further in view of Saulpaugh et al., United States Patent Number: 5,590,334 (hereinafter: Saulpaugh). (Pending Office Action, Page 4). Claims 7 and 19 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Cockrill, in view of Freund, in view of Dreyfus and further in view of Sato (Facsimile system). (Pending Office Action, Page 6). Applicant respectfully traverses these rejections.

"To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations." (emphasis added) (MPEP § 2143). "If an independent claim is non-obvious under 35 U.S.C. 103, then any claim depending therefrom is non-obvious." (emphasis added) *In re Fine*, 837 F. 2d 1071, 5USPQ2d 1596 (Fed. Cir. 1988). Applicant respectfully submits that independent Claims 1 and 13 include elements that do not appear to have been disclosed by any of the references cited by the Patent Office, either alone or in combination.

As previously noted, independent Claims 1 and 13 of the present application each generally recite the following:

> "wherein the transaction object is capable of transmitting data related to the stored occurrence of the utilization event over a network via a ***direct***, object-to-object communications protocol."

In the final Office Action, the rejection acknowledged (believed to be correctly) that Cockrill and Freund fail to teach the above-referenced, claimed elements of the present invention (final Office Action, Page 3):

> 7. Crockrill and Freund do not teach a network via a direct, object to object communication for transaction.

Instead, the rejections of the claims contended that the Dreyfus (referred to as "Paul" in the rejections) document taught the above-referenced, claimed elements of the present invention. (Pending Office Action, Page 3).

> However, Paul teaches a network via a direct, object-to-object communication for transaction (CORE A takes care of how your object... handles object-to-object transactions, sec: Architecture and ORBs, hi 13-157 a transaction service, which defines transactions between objects, sec: Architecture and ORBs, In 23-25).

> However, in the Advisory Action mailed March 7, 2007, it is stated that:
>
> Applicant argued in substance that:
> (1) " Dreyfus is not a direct, object-to-object communications".
>
> 2. Examiner respectfully disagreed with Applicant's remarks:
> As to the point(1), Cockrill teaches the transactional model discussed above, in which customers [object] make purchases directly from merchants/object] using credit card or check card transactions (col 2, In 30-33/ In 45-50).

It appears that this statement in the Advisory Action concedes that the Dreyfus document does not teach a "direct, object-to-object communication" as required by claims 1 and 13, as the statement appears to say that the rejection relies upon the Cockrill patent to teach this claim requirement. This also appears to be in direct contradiction to the concession in the final Office Action that neither Cockrill nor Freund teach this feature of the claims.

Also, the portion of the Cockrill patent that is being referenced in the Advisory

Action is part of the "Background of the Invention", and describes a system that the Cockrill patent strongly criticizes. See Cockrill at col. 2, lines 30 through 44, which goes beyond the small snippet quoted in the Advisory Action (emphasis added):

> The transactional model discussed above, in which customers make purchases directly from merchants using credit card or check card transactions, have serious disadvantages for both customers and merchants. First, as noted above, [1] low-priced purchases are generally impossible to conduct using this model, which generally precludes customers from purchasing and merchants from selling certain products, and limits the number of customers that can purchase others. Further, [2] the model requires each customer to expend significant effort managing his or her relationship with each merchant, and also requires each merchant to make significant up-front and continuing investments in managing its relationship with its customers and with its payment processor.

Thus, the discussion of the "transactional model" in Cockrill which is being relied upon in the Advisory Action is actually a model that Cockrill says has "serious disadvantages" (that are described in the above text) for the customer to merchant transactions, and sets forth reasons [1] and [2] why this model is disadvantageous.

The Cockrill patent elaborates further on these disadvantages to the customer at col. 2, lines 54 through 64:

> From the customer's perspective, he or she must provide credit card or check card payment information to each new merchant from which the customer makes a purchase. To do so is generally both inconvenient, because the customer must enter the same information over and over, and disconcerting, because the customer is required to entrust this sensitive information to several different parties, one or more of which may be untrustworthy. In addition, customers must learn the customer service policies of every merchant from which they purchase, which can be a burdensome process, especially for modestly-priced purchases.

And further elaborates on the disadvantages to the merchant at col. 2, line 65 through col. 3, line 4:

> From the merchant's perspective, it must build, operate, and scale up an infrastructure for accepting credit or check card payments from customers, for delivering purchased goods, and for providing customer service to those customers. Such infrastructures are generally expensive, and often distract merchants from their more fundamental role of creating and selling products.

In addition to these disadvantages, Cockrill set forth further disadvantages in the

"conventional" "transactional model" at col. 3, lines 5 through 23:

> Further disadvantages arise in the conventional model when a merchant subjects customers to user authentication. Merchants often use user authentication, the process of establishing that a Web user is actually a returning customer, to enable customers to make subsequent purchases using the payment information from a previous purchase, or to facilitate continuing consumption of purchased goods, such as continued access to an online periodical to which the customer has purchased a subscription. Generally, in order to authenticate as a returning customer, a user must enter a user name and password that is specific to each merchant. From the customer's perspective, submitting to user authentication involves the disadvantages of having to use a user name that is unique among those of each merchant's customers and thus is not always freely chosen by the customer, having to remember or record each of these different member names, and having to re-authenticate each time the customers move from the Web site of one merchant to the Web site of another, which can prove burdensome and frustrating for users.

It is therefore submitted that one of ordinary skill in the art, considering the significant number and scope of disadvantages set forth in Cockrill, would not consider the "transactional model set forth in the cited portion of the Cockrill patent that is relied upon in the Advisory Action. Significantly, Cockrill leads one of ordinary skill in the art to a model (illustrated, for example, in Figure 2 of Cockrill, where the direct dealings between customer and merchant are interrupted by a "transactional network" that prevents direct dealings between the customers and merchants.

It is therefore submitted that the allegedly obvious combination of the cited patents would not lead one of ordinary skill in the art to the requirements of claims 1 and 13.

Further, as previously noted, the present invention implements a ***direct***, object-to-object communications protocol. (Present Application, Page 12, Lines 26-28; Page 11, Lines 13-14). In the present invention, an architecture administrator (AA) *creates* objects. (Present Application, Page 12, Line 26). However, after the objects are created by the AA, the AA has no further involvement in object transactions. (Page 12, Lines 6-8). Therefore, all further communication happens ***directly*** between the objects, as claimed in the present application (i.e., "a ***direct***, object-to-object communications

protocol"). (Present Application, Page 12, Lines 26-28).

Dreyfus describes the object-oriented distributed environment, CORBA. The Patent Office cites lines 13-15 and 23-25 under the section entitled: "Architecture and ORBs as teaching a direct, object-to-object communications protocol as claimed in the present application. (Pending Office Action, Page 3). However, the Applicant would like to point out that the Patent Office has misinterpreted Dreyfus and that the CORBA environment disclosed in Dreyfus *is not* a ***direct,*** object-to-object communications protocol. As stated above, in the present invention, communication happens ***directly*** between the objects, (ex- happens ***without centralized control***), which allows the system of the present invention to avoid introducing a "single point of failure", thereby providing improved fault tolerance over existing protocols and object-based architectures. (Present Application, Page 11, Lines 5-7; Page 12 Lines 6-9, 26-28; Page 4, Lines 24-25). In contrast, Dreyfus clearly discloses that all communications between objects do not go directly from object to object, but *must* go through an Object Request Broker (i.e., an ORB). (Dreyfus; section entitled: "Multitiered Applications: How CORBA Works"; Lines 1-22). Further, unlike the present invention, CORBA environments, as disclosed in Dreyfus, introduce a "single point of failure" (i.e., the ORB), which could potentially disable a system. (Present Application, Page 4, Lines 6-20). Therefore, Applicant asserts that Dreyfus does not disclose, teach or suggest a ***direct***, object-to-object communications protocol.

Based on the rationale above, Applicant contends that none of the references cited by the Patent Office against the present invention, either alone or in combination, disclose, teach or suggest the above-referenced elements as claimed in Claims 1 and 13 of the present application and therefore, the above-cited references do not preclude patentability of the present invention under 35 U.S.C. § 103(a). Thus, independent Claims 1 and 13 are believed allowable. Further, Claims 2-12 and 40 (which depend from claim 1) and Claims 14-24 and 41 (which depend from claim 13) are therefore allowable.

Applicant further contends that there would have been no motivation, nor would it have been obvious to one of ordinary skill in the art at the time of the present invention to combine or modify any of the above-cited references, either alone or in combination, in an attempt to arrive at the present invention as claimed. First, Freund actually teaches away from the present invention by disclosing that its system implements CORBA architecture, an architecture which, as mentioned above, is ***incompatible*** for implementation with the present invention. (Freund, Column 5, Lines 49-52). Further, Applicant points out, based on similar reasoning, that the Dreyfus reference (which focuses on CORBA architecture) also teaches away from the present invention.

> "The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. .... It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that "one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention." *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443 (Fed. Cir. 1992) *quoting In re Fine*, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988).

The Patent Office has proceeded to *impermissibly* use the present patent application as a basis for the motivation to combine or modify the prior art in an attempt to arrive at the claimed invention. As a result, a *prima facie* case of obviousness has not been established for independent Claims 1 and 13. Thus, independent Claims 1 and 13 are believed allowable. Further, Claims 2 through 12 and 40 (which depend from claim 1) and Claims 14 through 24 and 41 (which depend from claim 13) are therefore allowable.

CONCLUSION

In light of the forgoing, reconsideration and allowance of the pending claims is earnestly solicited.

Respectfully submitted,

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